

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>4-28-2017</u>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA

-v.-

GERY SHALON,

a/k/a "Garri Shalelashvili,"

a/k/a "Gabriel,"

a/k/a "Gabi,"

a/k/a "Phillipe Mousset,"

a/k/a "Christopher Engeham,"

JOSHUA SAMUEL AARON,

a/k/a "Mike Shields," and

ZIV ORENSTEIN,

a/k/a "Aviv Stein,"

a/k/a "John Avery,"

Defendants.

- - - - - X

STIPULATION AND CONSENT
ORDER TO REPATRIATE
ASSETS AT SCHRODER & CO
BANK AG, SWITZERLAND,
PURSUANT TO
21 U.S.C. § 853(e)(4)(A)

S1 15 Cr. 333 (LTS)

WHEREAS, on November 9, 2015, GERY SHALON, a/k/a "Garri Shalelashvili," a/k/a "Gabriel," a/k/a "Gabi," a/k/a "Phillipe Mousset," a/k/a "Christopher Engeham," ("Shalon"); JOSHUA SAMUEL AARON, a/k/a "Mike Shields," and ZIV ORENSTEIN, a/k/a "Aviv Stein," a/k/a "John Avery," (collectively, the "Defendants"), were charged in a twenty-three-count superseding Indictment, S1 15 Cr. 333 (LTS) (the "Indictment"), with one count of conspiracy to commit computer hacking, in violation of Title 18, United States Code, Section 371 (Count One); computer hacking, in violation of Title 18, United States Code, Sections 1030(a)(2)(A), 1030(c)(2)(B), and 2 (Count

Two); computer hacking, in violation of Title 18, United States Code, Sections 1030(a)(2)(C), 1030(c)(2)(B), and 2 (Count Three); conspiracy to commit securities fraud, in violation of Title 18, United States Code, Section 371 (Count Four); conspiracy to commit wire fraud, in violation of Title 18, United States Code, Section 1349 (Count Five); securities fraud, in violation of Title 15, United States Code, Sections 78j(b) & 78ff; Title 17, Code of Federal Regulations, Section 240.10b-5, and Title 18, United States Code, Section 2 (Counts Six through Twelve); wire fraud, in violation of Title 18, United States Code, Sections 1343 and 2 (Count Thirteen); identification document fraud conspiracy, in violation of Title 18, United States Code, Sections 1028(f) and 2 (Count Fourteen); aggravated identity theft, in violation of Title 18, United States Code, Sections 1028A and 2 (Count Fifteen); unlawful internet gambling enforcement act conspiracy, in violation of Title 18, United States Code, Section 371 (Count Sixteen); unlawful internet gambling enforcement act, in violation of Title 31, United States Code, Sections 5363 and 5366, and Title 18, United States Code, Section 2 (Count Seventeen); operation of an illegal gambling business, in violation of Title 18, United States Code, Sections 1955 and 2 (Count Eighteen); conspiracy to commit wire fraud, in violation of Title 18, United States Code, Section 1349 (Count Nineteen); conspiracy to operate an unlicensed

money transmitting business, in violation of Title 18, United States Code, Section 371 (Count Twenty); operation of an unlicensed money transmitting business, in violation of Title 18, United States Code, Sections 1960 and 2 (Count Twenty-One); money laundering conspiracy, in violation of Title 18, United States Code, Section 1956(h) (Counts Twenty-Two through Twenty-Three);

WHEREAS, the Indictment included a forfeiture allegation providing notice that as a result of committing one or more of the offenses alleged in Counts One through Three of the Indictment, the Government is seeking to forfeit, pursuant to Title 18, United States Code, Section 982(a)(2)(B), any property constituting or derived from, proceeds obtained directly or indirectly as a result of the offenses alleged in Counts One through Three and pursuant to Title 18, United States Code, Section 1030(i), any interest in any personal property that was used or intended to be used to commit or facilitate the commission of the offenses alleged in Counts One through Three and any property real or personal, constituting or derived from any proceeds obtained directly or indirectly as a result of the offenses alleged in Counts One through Three;

WHEREAS, the Indictment included a second forfeiture allegation providing notice that as a result of committing one or more of the offenses charged in Counts Four through Thirteen, and

Eighteen through Twenty, of the Indictment, the Government is seeking to forfeit, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, any property real or personal, which constitutes or is derived from proceeds traceable to the offenses alleged in Counts Four through Thirteen, and Eighteen through Twenty;

WHEREAS, the Indictment included a third forfeiture allegation providing notice that as a result of committing the offense alleged in Count Fourteen of the Indictment, the Government is seeking to forfeit, pursuant to Title 18, United States Code, Section 982(a)(2)(B), any property constituting or derived from, proceeds obtained directly or indirectly as a result of the offenses alleged in Count Fourteen and pursuant to Title 18, United States Code, Section 1028(b)(5), any property used or intended to be used to commit the offense alleged in Count Fourteen;

WHEREAS, the Indictment included a fourth forfeiture allegation providing notice that as a result of committing one or more of the offenses alleged in Counts Twenty-One through Twenty-Three of the Indictment, the Government is seeking to forfeit, pursuant to Title 18, United States Code, Section 982(a)(1), any property, real or personal, involved in the offenses alleged in

Counts Twenty-One through Twenty-Three, or any property traceable thereto;

WHEREAS, on or about April 20, 2017, the Government filed a forfeiture Bill of Particulars (Docket Entry 54) providing Shalon and his co-defendants with notice that as a result of the commission of the offenses alleged in the Indictment, among other things, the funds in the following accounts are subject to forfeiture to the United States:

- a. Any and all funds in Account Number 310.051.0010, in the name of Allvitone Systems LP at Schroder & Co Bank AG, Switzerland;
- b. Any and all funds in Account Number 310.051.0002, in the name of Allvitone Systems LP at Schroder & Co Bank AG, Switzerland;
- c. Any and all funds at Schroder & Co Bank AG, Switzerland in the name of Nener Finance Corp;
- d. Any and all funds in Account Number 310.083.0002, in the name of Terlinura Alliance LP at Schroder & Co Bank AG, Switzerland; and
- e. Any and all funds in Account Number 310.083.0010, in the name of Terlinura Alliance LP at Schroder & Co Bank AG, Switzerland;

((a) through (k) collectively, the "Subject Accounts" and the funds within the Subject Accounts, the "Subject Funds");

WHEREAS, Title 21, United States Code, Section 853(e)(4)(A) provides that "the court may order a defendant to repatriate any property that may be seized and forfeited, and to deposit that property pending trial in the registry of the court, or with the . . . Secretary of the Treasury, in an interest-bearing account, if appropriate;"

WHEREAS, Shalon represents that he is the beneficial owner of any and all funds in the Subject Accounts;

WHEREAS, Shalon agrees and voluntarily consents to the repatriation of the Subject Funds to the United States, pursuant to Title 21, United States Code, Section 853(e)(4)(A) in order to, among other things, ensure the preservation of those funds; and

WHEREAS, Shalon, the defendant, understands that pursuant to Title 21, United States Code, Section 853(e)(4)(B), "[f]ailure to comply with . . . [a Repatriation Order] shall be punishable as a civil or criminal contempt of court, and may also result in an enhancement of the sentence of the defendant under the obstruction of justice provision of the Federal Sentencing Guidelines;"

NOW THEREFORE, IT IS HEREBY STIPULATED, AGREED, AND ORDERED that:

1. Pursuant to Title 21, United States Code, Section 853(e)(4), within forty-five (45) days of receipt of this Order, GERY SHALON, a/k/a "Garri Shalelashvili," a/k/a "Gabriel," a/k/a "Gabi," a/k/a "Phillipe Mousset," a/k/a "Christopher Engeham," the defendant, shall repatriate the Subject Funds to the United States. The Subject Funds shall be sent by wire transfer to the United States Department of Treasury and shall be held by the United States Department of Treasury in the Treasury Forfeiture Funds Suspense Account pending further order of the Court. Schroder & Co Bank AG, Switzerland shall utilize the following wire instructions to remit the Subject Funds to the United States Department of Treasury:

To: Federal Reserve Bank of New York (33
Liberty Street, New York, NY 10045)
Title of Account: Treasury Forfeiture Funds Suspense
Account
ABA Number: 021030004
Account Number or Agency Locator Code: 870050094001
Text Field: 2014R01165 Seizure
Swift Code: FRNYUS33

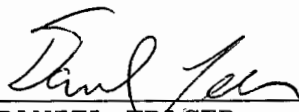
2. Shalon hereby authorizes Schroder & Co Bank AG, Switzerland to wire transfer any and all funds in the Subject

Accounts to an account maintained by the United States Department of Treasury.

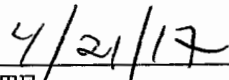
3. Shalon authorizes Assistant United States Attorney Daniel Tracer to provide further instructions to Schroder & Co Bank AG, Switzerland if necessary.

4. The signature page(s) of this stipulation may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. Signature page(s) may be by fax or other electronic means, including but not limited to email and .pdf, and such signatures shall be deemed as valid originals.

JOON H. KIM
Acting United States Attorney
Southern District of New York

By: 

DANIEL TRACER
Assistant U.S. Attorney
One St. Andrew's Plaza
New York, New York 10007
Tel. No. (212) 637-2279



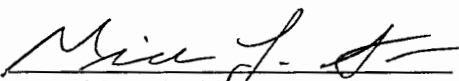
DATE

[SIGNATURES CONTINUED ON NEXT PAGE]

GERY SHALON,
a/k/a "Garri Shalelashvili,"
a/k/a "Gabriel,"
a/k/a "Gabi,"
a/k/a "Phillipe Mousset,"
a/k/a "Christopher Engeham,"

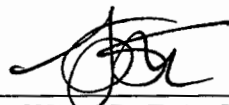
By: 
GERY SHALON

4/21/17
DATE

By: 
MICHAEL SOSHNICK, Esq.
Counsel for Shalon
109 Willis Avenue, Suite 112
Mineola, New York 11501
Tel. No. (516) 294-1111

4/21/17
DATE

SO ORDERED:


HONORABLE LAURA T. SWAIN
United States District Court
Southern District of New York

4/27/17
DATE